

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

Civil Writ Petition No. 912 of 2003 (S/S)

1. Head Constable 497 Ram Bhool Singh
S/o Late Sri Kundan Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
2. H.C.P. 618 Dambar Singh
S/o Sri Kaeheru Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
3. H.C.P. 475 Govind Ram
S/o Sri Parsu Ram
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
4. H.C.P. 57 Satyapa Singh
S/o Late Sri Jaipal Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
5. H.C.P. 721 Udai Veer Singh
S/o Sri Tara Chandra
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
6. Constable 5623 Shyam Babu
S/o Late Gajram Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
7. Constable 2772 Kiran Pal
S/o Sri Ami Chandra
Presently posted at G.R.P. Laksar
District Haridwar
8. Constable 5678 Shyam Singh
S/o Sri Kishan Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
9. Constable 1440 Sohan Singh
S/o Sri Dhoom Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
10. Constable 5634 Jai Dev Singh
S/o Sri Lekh Raj Singh
Posted at P.S. G.R.P. Haridwar
District Haridwar
11. Constable 4838 Hira Lal
S/o Sri Shiv Charan
Presently posted at P.S. G.R.P. Haridwar

- District Haridwar
12. Constable 2999 Mohan Singh
S/o Sri Bhanwar Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 13. Constable 5043 Muneshwar Singh
S/o Sri Chandra Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 14. Constable 4763 Subedar Yadav
S/o Sri Kanhaya Yadav
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 15. Constable 3658 Atar Singh
S/o late Nathu Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 16. Constable 463 Som Pal Singh
S/o Sri Ram Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 17. Constable 5301 Buddhi Lal
S/o Sri Ram Prasad
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 18. Constable 2472 Salim Ahmad
S/o Sri Rasid Ahmad
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 19. Constable 4745 Surendra Tyagi
S/o Sri Jai Prakash Tyagi
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 20. Constable 3686 Satyapal Singh
S/o Sri Amar Nath Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 21. Constable 3247 Ram Mehar Singh
S/o Late Ram Kala Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 22. Constable 3274 Dujendra Singh
S/o Late Kiran Pal Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
 23. Constable 3563 Jagdish Prasad
S/o Sri Badri Prasad

- Presently posted at P.S. G.R.P. Haridwar
District Haridwar
24. Constable Chandra Pal Yadav
S/o Sri Brahama Singh Yadav
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
25. Constable 3145 Ravindra Singh Tomar
S/o Sri Mahipal Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
26. Head Constable Ramesh Chandra
S/o Sri Kallu Ram
Presently posted at P.S. Roorkee Chowki
G.R.P. Haridwar
27. Constable 3067 Vikram Singh
S/o Sri Charan Singh
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
28. Constable 2985 Chandra Kishore
S/o Sri Tulsi Ram
Presently posted at P.S. G.R.P. Haridwar
District Haridwar
29. Constable 3685 Devendra Singh Tomar
S/o Sri Ram Veer Singh
Presently posted at P.S. Ganga Nehru
Roorkee
District Haridwar
30. Constable 254 Kanhaya Rai
S/o Sri Jai Ram Rai
Presently posted at P.S. Kotwali
Roorkee Haridwar
District Haridwar
31. Constable 521 Niyaj Ahmad
S/o Sri Abne Ali
Presently posted at P.S. Gangnagar
Rorkee
District Haridwar

.....Petitioner.

Versus

1. Union of India through its Secretary
Ministry of Home Affairs
2. State of Uttaranchal through
Principal Secretary
Government of Uttaranchal
Dehradun
3. State of Uttar Pradesh through
Principle Secretary

U.P. Lucknow
4. Senior Superintendent of Police
District Haridwar Respondents.

Sri B.M. Pingal, holding brief of Sri Vivek Shukla learned counsel for the petitioners
Sri N.C. Gupta, learned standing counsel for the respondents.

Hon'ble B.C. Kandpal, J.

This writ petition has been filed for issuing of a writ order or direction in the nature of mandamus commanding the respondents to decide the options submitted by the petitioners for relieving them for the State of Uttar Pradesh.

Brief facts giving rise to this petition are that the petitioners are Head Constable and Constables in G.R.P. or Civil Police Posted in the District Haridwar. All the petitioners were appointed in the State of Uttar Pradesh and at the time of creation of State of Uttaranchal, they had given their options for their posting in the State of Uttar Pradesh.

It has been stated in the writ petition that their options had not been considered by the Advisory Committee as yet. Hence, this writ petition.

Heard learned counsel for the parties and perused the record.

Petitioners have stated in the writ petition that the Central Government has not framed any policy for final allocation and as such the petitioners are suffering due to inaction on the part of the Central Government.

Section 73 of the Uttar Pradesh Reorganization Act, 2000 provides that every person shall continue to serve provisionally and thereafter the Central Government shall determine the final allocation for service, **Section 73 (1), (2),(3)** reads as under: -

“Provisions relating to other services:-

(1) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Uttar Pradesh shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Uttar Pradesh unless he is required, by general or special order of the Central

Government to serve provisionally in connection with the affairs of the State of Uttaranchal.

Provided that every direction under this Sub-section issued after the expiry of a period of one year from the appointed day shall be issued with the consultation of the Government of the successor States.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State, shall if he is not already serving therein be made available for serving in the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.”

The advisory committee has been constituted under **Uttar Pradesh Reorganisation Act 2000 by virtue of Section 76 of the Act**. It reads as under:-

“Advisory Committees- The Central Government, by order, established one or more Advisory committee for the purpose of assisting it in regard to-

*(a) the discharge of any of its functions under this part;
and*

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.”

Learned counsel for the petitioners has also referred **Section 77 of the Uttar Pradesh Reorganisation Act 2000** with regards to the power of the Central Government, which runs as under:-

“Power of Central Government to give directions- The Central Government may give, such directions to the State Government of Uttar Pradesh and the State of Government of Uttaranchal as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions.”

The learned counsel for the petitioners has invited my attention towards the judgment and decision of the Division Bench of this Court passed in **Writ Petition No. 457 of 2003 Udai Pratap Singh Vs. State of U.P.** in which this court has made following observations:-

“Under Section 73(2), the Central Government is given the power to allocate the cadres by general or special order of allotment between the two States. Section 76 provides for setting up of an Advisory committee to assist the Central government. By the impugned order dated 11th September, 2002, the Central Government has issued directions allocating the various cadres between the two States. The Central Government has issued these directions pursuant to the authority given by the legislature to the Central Government.

The Central Government had constituted an Advisory Committee under Section 76. That Committee submitted its report on 28th April 2001/10th May 2001. Their report has been accepted by the Central Government as indicated by letter dated 4th September, 2001 (annesue-4). We may clarify that the report of the Advisory Committee has not been fully accepted by the Central Government.”

In another decision the Division Bench of this Court in **Writ petition NO. 451 (S/B) of 2003 Narendra Kumar Vs. State of Uttaranchal**, has also observed as under:-

“Under Section 73 of the U.P. Reorganisation Act, 2000, final allocation of all State Services personnel between the successor State shall be decided by the Central Government. Till

date, that decision has not been taken. Therefore, the petition is premature.

In the light of the aforesaid observations, I am of the view that the petitioners should be permitted to make their representations before the Advisory Committee of Union of India and their representations along with the options shall be considered by the Advisory Committee of Union of India for relieving them for the State of Uttar Pradesh.

I accordingly direct that the representations made by the petitioners shall be disposed of within a period of six weeks after production of the citified copy of the order.

With the aforesaid observations, the writ petition is disposed of finally. No order as to costs.

07.06.2005
ASWAL

(B.C. Kandpal, J.)